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March 18, 2021

Via ECF

Hon. Loretta A. Preska, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Motion for Extension of Time to Move for Substitution of Cho Kam Sze
Ye v. 2953 Broadway LLC, No. 18-cv-4941 (LAP), (S.D.N.Y.)

Your Honor,

I represent the Plaintiffs in the above-referenced matter. I write respectfully to request an extension of 45 days to move for the substitution of Defendant Cho Kam Sze a/k/a Tommy Sze (hereinafter “Tommy Sze”) due to the continued pendency in the Queens County Surrogate’s Court of a petition for administration of Tommy Sze’s estate. This would extend Plaintiffs’ time to move from March 18, 2021 to May 2, 2021.

Tommy Sze died on October 6, 2020. On November 5, 2020, his son and distributee, Edwin Qiang Xi Sze a/k/a Qiang Xi Sze a/k/a Edwin Sze (hereinafter “Edwin Sze”), through counsel Yi Lin, filed a petition for letters of administration. Counsel for Plaintiffs learned of Tommy Sze’s death on December 14, 2020, from his counsel (who is also counsel for 2953 Broadway Inc. d/b/a Vine Sushi (hereinafter “Vine Sushi”)), and filed a suggestion of death upon the record on December 18, 2020. Accordingly, the time for any party to move for substitution of Tommy Sze is March 11, 2021. *See* Fed. R. Civ. P. 25(a)(1). Defense counsel provided Plaintiffs’ counsel with a copy of Edwin Sze’s petition, obtained from Yi Lin, on December 25, 2020. A copy is attached hereto.

Edwin Sze’s domicile was redacted from the copy of the petition we received, however, on December 31, 2020, his attorney Yi Lin consented by email to accept service of Plaintiffs’ motion for substitution on his behalf. A copy of the consent is attached hereto.

According to Mr. Lin, as of today the Surrogate’s Court has not provided Mr. Lin with written notice of a case number. Accordingly, it is our belief that the Surrogate’s Court has only begun processing Edwin Sze’s petition, if that. However, it is my understanding that ultimately, the Surrogate’s Court will appoint him the administrator of Tommy Sze’s estate.

Therefore, Plaintiffs request that this Court extend the time for filing their motion for substitution of Tommy Sze by Edwin Sze an additional 45 days. *See Hybrid Capital Group, LLC v. Padell*, 17-cv-06343 (KPF), Dkt. No. 68 (S.D.N.Y. Nov. 16, 2018) (granting 45-day extension when petition for appointment of executor was still pending when motion for substitution under Rule 25 was due).

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I thank the Court for its attention to and consideration of this matter.

Respectfully submitted,

TROY LAW, PLLC

/s/ John Troy

John Troy

Attorney for Plaintiffs

cc: via ECF

all counsel of record

The extension request above is approved.

SO ORDERED.

Dated: March 19, 2021
New York, New York



LORETTA A. PRESKA, U.S.D.J.